

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

L.T AND M.T. by their parent Jeffrey N. Thomas,
JEFFREY N. THOMAS as parent of L.T and M.T.;
T.L., B.L., R.L., A.L. by their parent Karen
LeClair; KAREN LECLAIR as parent of T.L.,
B.L., R.L., A.L.; J.S. by his parent Danielle
Schipano; DANIELLE SCHIPANO as parent of
J.S.; B.P by his parent Andrea Penamora,
ANDREA PENAMORA as parent of B.P.; E.W. by
her parent Joseph Whitehead; and JOSEPH
WHITEHEAD as parent of E.W.

Plaintiffs,

vs.

Civil Action No.: 1:21-cv-1034 (LEK/DJS)

Declaration of Lauren Capriola

HOWARD A. ZUCKER, in his official capacity
and in his individual capacity,

Defendant.

Declaration of Lauren Capriola

Lauren Capriola, pursuant to 28 U.S.C. §1746, declares that:

1. I am a New York State Licensed Speech-Language Pathologist. As a Speech-Language Pathologist, I am certified through the American Speech and Hearing Association and am a Certified Teacher of Students with Speech and Language Disabilities (TSSLD). I am proficient in signed language English.

2. I have firsthand personal knowledge of the facts set forth below and could competently testify about them if called as a witness.
3. Based on my education, training, and experience, it is my professional opinion that wearing masks interferes with children's ability to learn, communicate, and receive communication.
4. For the last decade, I have worked with children in preventing, assessing, diagnosing, and treating speech, language, social communication, cognitive-communication, including students with a variety of medical diagnoses and speech and language needs, such as Autism, articulation and phonological deficits, receptive and expressive language delays, auditory processing difficulties, and oral-motor deficits. I am currently employed, and have been for years, by the Brookville Center for Children's Services as well as NY Therapy Placement Services. Attached hereto as **Exhibit A** is a true and accurate copy of my *Curriculum Vitae*.
5. Masks suppress necessary facial cues that are critical for children to communicate and to comprehend communication. Masks inhibit and abridge speech.
6. Since March 2020, with the onset of the Covid-19 pandemic, I have observed firsthand the severe detriments that masking has caused to children's communication and education.
7. Non-verbal communication is a critical way in which children communicate and learn in school. This is especially true given a child's more limited vocabulary, making non-verbal communication all the more vital. This non-verbal communication occurs in a dynamic and synergistic fashion through children observing their teacher's facial expressions, as well as children being able to observe each other's facial expressions.

8. The wearing of masks results in children losing the ability to observe facial expression.

Without being able to observe this, children cannot effectively receive communication from their teachers who are masked or from their fellow students who are also masked. Children who are masked also are unable to mimic facial expressions of their masked teachers, which is critical to children's learning and development.

9. Most of communication, including among children, is nonverbal. Non-verbal communication and facial expressions in particular are the essential means in which children learn. The lower part of someone's face including their mouth region amounts to a substantial part of someone's non-verbal communication. Without being able to observe the lower half of someone's face children fail to effectively learn.

10. Masks alter, inhibit and distort the context and meaning of the speech by hiding facial expressions and altering tone, the velocity and volume of speech, as well as vocal modulation.

11. Facial expressions, voice tone and velocity, and volume of speech are inexorably linked to the content and meaning of speech and its message.

12. Masks thus interfere with, inhibit, alter and distort the ability of speakers to properly communicate their message and listeners to properly perceive the message of the speaker.

13. Education of children, especially young children, includes learning how to effectively perceive emotions, respond to emotions, and communicate emotions. Mask wearing significantly inhibits this education because the lower half of the face is covered.

14. Indeed, positive emotions exhibited by laughing and smiling are less recognizable, as are negative emotions like being angry or sad, by mask wearing. With children being largely prevented from perceiving these emotions of their peers, as well as their teachers, they do

not learn how to respond to these emotions, perceive them, or communicate the emotions themselves.

15. Moreover, with emotions being substantially concealed by the masks, the child is not able to effectively communicate to their peers or their teachers what they are feeling. This only compounds the problem that masks pose to a child's education. For example, many children, including very young children, are depressed, anxious, and are dealing with difficult home environments, such as neglect and abuse. Children present these situations to their teachers and peers often times through emotional expression (and even more so by non-verbal children or children who have other special needs), and specifically through their face. Because half of the child's face is covered by a mask, the child's emotional state is not ascertained and no conversation is ever had regarding how the child is feeling or what is causing the child to feel a particular way. As a result, serious problems that are ailing the child go undetected and unaddressed.

16. When teaching children how to interpret feelings and emotions, and how to learn empathy and compassion, facial expressions are critical. This is all the more true with children who have communication difficulties or social and pragmatic language delays or disorders. With a mask, the child is unable to imitate and match feelings and facial expressions and learn them. IEP (Individualized Education Program) goals towards using and expressing appropriate facial expressions are not being met.

17. In addition to emotional learning, speaking and reading lessons are also critical to many children's educational curriculum. Children learn how to do this not just by hearing their teacher speak but by watching the movements of their teacher's face and mouth and mimicking those movements as they learn to read and speak themselves. The wearing of

masks eliminates the child's ability to do this and in turn the child does not learn to properly read and speak.

18. With facial movements being so important to communication, some children are discouraged from voluntarily speaking given that the facial movements of their mouth are concealed. This can especially effect children who are soft spoken or have insecurities with respect to speaking up in class. Not to mention the masks invariably create some degree of muffled speech. For children who are naturally quieter, this factor can result in discouraging the children from speaking.
19. Masks moreover (because they obscure the mouth) force the wearer to speak louder and slower to be understood.
20. The tone, velocity and volume of speech are inexorably linked to the meaning of the message.
21. Masks, thus interfere, inhibit, alter and distort the ability of the speaker to properly communicate and listeners to properly perceive the message of the speaker.
22. With respect to the muffling of the sounds spoken through a mask, this also impacts the child's ability to hear, especially children who are hearing impaired. If the child is not receiving clear sounds from the teacher or proper pronunciation and enunciation, the child does not learn how to pronounce or enunciate what the teacher is saying.
23. Also, nonverbal children on the autism spectrum rely on facial expressions even more than other children. When a child is unable to express themselves verbally, like nonverbal children, they rely on facial expressions and gestures to communicate a want or need. When the child is wearing a mask, their sole or primary way of communication is

stripped from them. They are thus unable to effectively express a mood, a want, or a need to their teacher or to another student.

24. It is paramount to address oral motor, articulation, feeding, auditory, and aural goals with special needs children. These goals are unable to be addressed however with a mask on a child. Some of these special needs children are entitled to PROMPT (Restructuring Oral Muscular Phonetic Targets) therapy, which includes the child touching their face, lips, cheeks, chin, and nose, in order to assist in placement of articulators for speech sounds. As a result of the mask mandate, these children are essentially being denied certain highly effective and necessary therapies, like PROMPT therapy. Indeed, children cannot imitate an oral motor exercise (lingual elevation, for example) with a mask on. This skill could be used for placement or for feeding. Children who are entitled to feeding therapy are unable to work on lip closure with a mask on.

25. Masks furthermore can be itchy, uncomfortable, it can unintentionally move around on the child's face, and young kids in particular do not always wear masks correctly--all of this is highly distracting to the child, taking the child's attention away from their education.

26. The mask furthermore restricts the child's breathing and gives the child a sensation of being trapped inside a hot mask. Countless times I have observed children complaining of their mouth feeling hot, not having cool air to breathe, or feeling trapped in their mask. Mask wearing that is nearly constant creates an unabated circumstance where the children are distracted from their school lessons as a result of the emotional, psychological, and physical burden that the mask creates.

27. Although the teacher may allow an occasional “mask break,” these breaks are given at the sole discretion of the teacher in charge.
28. Given the regular interruption in the lessons by a child complaining about the mask or removing their mask, and the teacher trying to enforce the mask requirement, and the basic distraction and stressor that mask wearing creates for the children’s learning, the children’s learning is compromised significantly.
29. It is my professional opinion, to a reasonable degree of professional and/or speech-language pathologic certainty, that masks fundamentally restricts a child’s ability to communicate and to receive communication and frustrates and inhibits the child’s learning, education, and development.
30. I reserve the right to supplement this declaration in writing or through oral testimony up to and through the time of a hearing. Supplementation will include testimony and evidence that expands upon the contents of this affidavit as well as necessary information outside of the four corners of this declaration.

On this 27th day of September, 2021, I, Lauren Capriola, pursuant to 28 U.S.C. §1746, declare that I have read the foregoing declaration and the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

/s/ Lauren Capriola

Lauren Capriola

EXHIBIT A

Objective

To obtain a position in which I can utilize my education and years of experience as a Speech-Language Pathologist within the school setting.

Licenses and Certifications

- New York State Licensed Speech-Language Pathologist
- Certified through the American Speech and Hearing Association
- Certified Teacher of Students with Speech and Language Disabilities (TSSLD)

Related Skills

- Level One PROMPT Trained
- Trained in the S.O.S. Approach to Feeding
- Proficient in signed English

Professional Experience

Brookville Center for Children's Services	New Hyde Park, NY	November 2014-Present
<ul style="list-style-type: none">• Full-Time Contractor (November 2014-August 2016) and Full-Time Employee (August 2016-Present) as a Speech Pathologist. Treat preschool students with a variety of medical diagnoses and speech and language needs, including Autism, articulation and phonological deficits, receptive and expressive language delays, auditory processing difficulties, and oral-motor deficits.• Responsible for paperwork including daily log notes, data collection, referrals, monthly attendance, and quarterly progress notes.• Evaluate all students on caseload for purpose of annual review, as well write reports and custom goals/objectives on IEP Direct and NYC school district IEPs.		
NY Therapy Placement Services	Port Jefferson, NY	October 2010-Present
<ul style="list-style-type: none">• Treat preschool children and school-age students with articulation and phonological deficits, language delays, autism, and auditory processing difficulties. Provide Family Training to families of children with food aversions .• Evaluate students for purpose of annual review, using various speech and language testing materials.• Responsible for paperwork including: daily log notes, referrals, quarterly progress reports, and monthly billing.		
Complete Rehabilitation Consultants	Remsenburg, NY	July 2008-January 2015
<ul style="list-style-type: none">• Treat preschool, school-age, and high-school students with articulation and phonological deficits, language delays, oral-motor issues, Apraxia of Speech, Cerebral Palsy, auditory processing difficulties, and learning disabilities.• Evaluate students for purpose of annual review, using various speech and language testing materials.• Responsible for paperwork including: daily log notes, referrals, quarterly progress reports, and monthly billing.		
New Interdisciplinary School	Yaphank, NY	July 2007-October 2011
<ul style="list-style-type: none">• Employed as a Full-Time Speech-Language Pathologist treating preschool students with autism, apraxia of speech, language delays, oral-motor issues, articulation and phonological deficits, fluency issues, and auditory processing difficulties.• Utilized techniques from the Incredible Years Behavioral Program to promote positive behaviors in sessions.• Evaluated students for initial evaluations and annual reviews using commonly-used preschool testing instruments.• Completed year-round paperwork including: daily log notes, progress reports, IEP Amendments, and monthly attendance.		
Arrowhead Elementary School	East Setauket, NY	January 2007-May 2007
<ul style="list-style-type: none">• Completed Student Teaching under the supervision of Toni Peters. Designed lesson plans for students in grades K-6.• Treated students with autism, apraxia of speech, language delays, articulation and phonological deficits, auditory processing difficulties, and cleft palate.• Gathered and prepared appropriate session materials, communicated with the teachers and assistants regarding progress of students, and accompanied students back and forth to therapy (as appropriate).		

Education and Training

Adelphi University	Garden City, NY	August 2005-June 2007
Masters of Science- Speech-Language Pathology		
St. Joseph College	Patchogue, NY	August 2001-May 2005
Bachelor of Arts- Speech Communication		